

1 WO  
2  
3  
4  
5

6 **IN THE UNITED STATES DISTRICT COURT**  
7 **FOR THE DISTRICT OF ARIZONA**

8 David Scott Detrich, ) No. CV-03-229-TUC-DCB  
9 Petitioner, ) DEATH PENALTY CASE  
10 vs. )  
11 )  
12 Dora Schriro, et al., )  
13 Respondents. )  
14 \_\_\_\_\_ )

**ORDER**

15 Pending before the Court is Petitioner's Motion for Clarification and Unopposed  
16 Motion for Extension of Time (Dkt. 173).

17 The Court's July 2006 scheduling order set the following disclosure deadline:

18 Both parties shall disclose any witness statements, declarations, affidavits,  
19 and/or depositions on which they intend to rely in lieu of live testimony by  
20 **December 4, 2006**. The parties shall file only a notice of such disclosure, the  
actual disclosures need not be filed with the Court at this time.

21 (Dkt. 130.) On December 4, Petitioner disclosed to Respondents and the Court a list of  
22 witnesses on whose declarations they intend to rely, but provided only a few actual  
23 declarations to Respondents as Petitioner is not currently in possession of the remainder of  
24 them. Petitioner's counsel indicated their belief that disclosure of the actual declarations  
25 was not required at this time but recognized the possibility they misinterpreted the order;  
26 therefore, they seek clarification of the Court's scheduling order and a time extension if the  
27 declarations were supposed to have been disclosed by December 4.

1        The Court intended that the parties would disclose the actual declarations to one  
2 another on December 4,<sup>1</sup> to allow sufficient time for the parties to challenge or rebut the  
3 declarations prior to the scheduled evidentiary hearing. With the knowledge that the  
4 evidentiary hearing will begin on February 6, Respondents do not object to allowing  
5 Petitioner until January 3, 2007, to disclose the actual declarations. Therefore, the Court will  
6 grant the requested extension but does not intend to extend other deadlines or the hearing  
7 based on this unopposed request. Additionally, the Court strongly encourages Petitioner to  
8 complete the declarations as soon as possible and to disclose them as they become available.

9 || Accordingly,

10           **IT IS ORDERED** that Petitioner's Motion for Clarification and Unopposed Motion  
11 for Extension of Time (Dkt. 173) is **GRANTED**. Petitioner shall complete disclosure of all  
12 witness declarations upon which he intends to rely in lieu of live testimony on or before  
13 **January 3, 2007**.

14 DATED this 6<sup>th</sup> day of December, 2006.

  
David C. Bury  
United States District Judge

25       <sup>1</sup> The Court notes that it does not find the language of its Order ambiguous and  
26 Respondents experienced no difficulty interpreting it (*see* Dkt. 172). More significantly, in  
27 an ex parte sealed budget motion, one of the reasons counsel requested additional hours was  
28 the need to “draft declarations for the December 5 witness disclosure” (Dkt. 158 at 15); thus,  
it appears that as of October 27, 2006, counsel believed the Court’s order required the  
disclosure of the actual declarations by the December deadline.